

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SANDRA L. MACAULAY, AS ADMINISTRATRIX)
FOR THE ESTATE OF CHRISTOPHER A.)
MACAULAY,)

Plaintiff,)

v.)

CA NO: 07-10864 NG

MASSACHUSETTS BAY COMMUTER RAILROAD)
COMPANY,)

Defendant.)

**MOTION OF DEFENDANT MASSACHUSETTS BAY COMMUTER
RAILROAD COMPANY, LLC FOR PROTECTIVE ORDER CONCERNING
THE DEPOSITION OF ITS GENERAL MANAGER JAMES O'LEARY**

Pursuant to Fed. R. Civ. P. 26(c), defendant Massachusetts Bay Commuter Railroad Company, LLC ("MBCR") hereby respectfully requests that the Court enter a protective order preventing the deposition of James O'Leary, MBCR's General Manager and top executive. In support of this motion, MBCR states: (i) Mr. O'Leary has no personal knowledge concerning the facts or circumstances at issue in the above-referenced action; (ii) plaintiff has not yet deposed lower level MBCR employees who, unlike Mr. O'Leary, have knowledge concerning the issues in this case; (iii) plaintiff's counsel refused MBCR's offer of a Rule 30(b)(6) deposition to obtain the requested information from the person(s) with the most knowledge of the areas into which Plaintiff purportedly seeks to inquire by deposing Mr. O'Leary; and, (iv) it appears that plaintiff seeks to depose Mr. O'Leary solely to annoy or harass him and MBCR.

In further support hereof, MBCR relies upon its supporting memorandum of law, the Affidavit of James O'Leary, and the Affidavit of Counsel, all filed herewith.

WHEREFORE, MBCR respectfully requests that the Court issue a protective order preventing the deposition of James O'Leary, until plaintiff at least has attempted to obtain the requested information through the deposition of a lower lever employee or corporate designee pursuant to Fed. R. Civ. P. 30(b)(6), or other means available to plaintiff.

Respectfully submitted,

MASSACHUSETTS BAY COMMUTER RAILROAD
COMPANY, LLC

By its attorneys,

/s/ Colleen C. Cook
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Dated: March 10, 2008

LOCAL RULE 7.1(A)(2) and 37.1 CERTIFICATION

I hereby certify that on February 29, 2008 I conferred with opposing counsel, George Cahill, Esq., by telephone in accordance with Local Rules 7.1(A)(2) and 37.1, and we were unable to resolve the issues raised in this motion.

/s/ Colleen C. Cook
Colleen C. Cook

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on this 10th day of March, 2008.

/s/ Colleen C. Cook
Colleen C. Cook